



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,950	06/29/2001	Robert D. Vanderminden SR.		8109

7590 12/31/2003

Francis C. Hand Esq.
c/o Carella, Byrne, Bain, Gilfillan, Cecchi,
Stewart & Olstein
6 Becker Farm Road
Roseland, NJ 07068

EXAMINER

A, PHI DIEU TRAN

ART UNIT PAPER NUMBER

3637

DATE MAILED: 12/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/895,950

Applicant(s)

VANDERMINDEN, ROBERT D.

Examiner

Phi D A

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11-15 and 17-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,11-15,17 and 19-24 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-6, 9, 11-13, 15, 17, 19-20, 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmidt(2462560).

Per claims 1, 3-4, Schmidt (figures 2-4) shows a tilt mechanism having a first tubular member (2), a second tubular member (3), a catch (4) mounted in one of the members and projecting into the other of said members, the catch having a plurality of recesses (7) at an end projecting into the other tubular member, a pin (15) mounted in said other of the tubular members transversely of an in one of the recesses of the catch to lock the tubular members relative to each other, at least one of the pin and the catch being movable coaxially (the pin can move up and down) relative to each other to release the pin from a selected one of the recesses, a spring means (17) in the other tubular member for biasing the pin towards the catch, the spring means including a coil spring abutting the pin (pushing the pin from underneath) and a plate (the part that supports the other end of the spring) secured in said other of the tubular members and abutting the coil spring.

Per claims 5-6, Schmidt (figures 2-4) shows a tilt mechanism having a first tubular member (2), a second tubular member (3), a catch (4) mounted in one of the members and projecting into the other of said members, the catch having a plurality of recesses (7) at an end projecting into the other tubular member, a pin (15) slidably mounted in said other of the tubular

Art Unit: 3637

members transversely of and in one of the recesses of the catch to lock the tubular members relative to each other, the pin being movable away (the pin can move down and away) from the catch to allow the other tubular member to tilt relative to said one tubular member, said end of the catch is spaced concentrically from second tubular member with said tubular members in alignment with each other and is in abutment (through the pin and sleeve) with said second tubular member in a terminal tilted position of said tubular members relative to each other.

Per claims 9, 11-13, Schmidt (figures 2-4) shows a tilt mechanism having a first tubular member (2), a second tubular member (3), a catch (4) fixedly mounted in one of the members along a longitudinal axis and having a stem (the end of the catch) projecting into and pivotally secured to the other of the members to allow the members to pivot relative to each other, the stem having a plurality of recesses (7) at an end thereof, a pin (15) mounted in said other of the tubular members transversely of a longitudinal axis of the other of the tubular members and in one of the recesses of the catch to lock the tubular members relative to each other, at least one of the pin and the catch being movable coaxially (the pin can move up and down) relative to each other to release the pin from a selected one of the recesses, a spring means (17) in the other tubular member for biasing the pin towards the catch, the spring means including a coil spring abutting the pin (pushing the pin from underneath) and a plate (the part that supports the other end of the spring) secured in said other of the tubular members and abutting the coil spring, the pin is slidably mounted in the other of the tubular members (per the sleeve) to move away from the catch to allow the other tubular member to tilt relative to said one tubular member.

Per claims 15, 17, 19, 20, 22, Schmidt (figures 2-4) shows a tilt mechanism having a first tubular member (2), a second tubular member (3), a catch (4) fixedly mounted in the first

Art Unit: 3637

member along a longitudinal axis and having a stem projecting into the second member, the stem having a plurality of recesses (7) at a lower end thereof, a rivet (13) pivotally securing the stem in the second member to allow the members to pivot relative to each other, a pin (15) mounted in said second member transversely of a longitudinal axis of the second tubular member and in one of the recesses of the catch to lock the tubular members relative to each other, a spring means (17) coaxially mounted in the second tubular member for biasing the pin towards the catch and into a selected one of the recesses, the spring means including a coil spring abutting the pin (pushing the pin from underneath) and a plate (the part/shoulder that the spring pushes against on the other end to push the pin upward) secured in said second member and abutting the coil spring, one of the recesses is disposed centrally of the stem and a pair of the recesses is disposed to opposite sides of the centrally disposed recess, said stem is spaced concentrically from second tubular member with said tubular members in alignment with each other and is in abutment with the second tubular member (through the pin and sleeve) in a terminal tilted position of said tubular members relative to each other, a bore at an upper end to receive an upper wood section of a pole (inherently capable of doing so) and the second member having a bore to receive a lower wood section of a pole therein (inherently capable of doing so).

3. Claims 5-8, 15, 17, 19, 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Lin (4877045).

Per claims 5-8, Lin (figures 1-3) shows a tilt mechanism having a first tubular member (10), a second tubular member (20), a catch (1) mounted in one of the members and projecting into the other of said members, the catch having a plurality of recesses (14) at an end projecting into the other tubular member, a pin (3) slidably mounted in said other of the tubular members

Art Unit: 3637

transversely of and in one of the recesses of the catch to lock the tubular members relative to each other, the pin being movable away (the pin can move sideways) from the catch to allow the other tubular member to tilt relative to said one tubular member, said end of the catch is spaced concentrically from second tubular member with said tubular members in alignment with each other and is in abutment (through the pin 3 and rivet 4) with said second tubular member in a terminal tilted position of said tubular members relative to each other, the tubular members having contoured interfitting end surfaces to define a smooth cylindrical contour therebetween with the tubular members in alignment with each other, said other of the tubular members having a pair of oppositely disposed elongated slots (26) and the pins projects through the slots for grasping thereof.

Per claims 15, 17, 19, 22-24, Lin (figures 1-3) shows a tilt mechanism having a first tubular member (10), a second tubular member (20), a catch (1) fixedly mounted in the first member along a longitudinal axis and having a stem projecting into the second member, the stem having a plurality of recesses (14) at a lower end thereof, a rivet (4) pivotally securing the stem in the second member to allow the members to pivot relative to each other, a pin (3) mounted in said second member transversely of a longitudinal axis of the second tubular member and in one of the recesses of the catch to lock the tubular members relative to each other, a spring means (5) coaxially mounted in the second tubular member for biasing the pin towards the catch and into a selected one of the recesses (the directional movement of the pin is not claimed as being coaxially), the spring means including a coil spring abutting the pin (pushing the pin from underneath) and a plate (the part/shoulder that the spring pushes against on the other end to move the spring horizontally) secured in said second member and abutting the coil spring, one of the

Art Unit: 3637

recesses is disposed centrally of the stem and a pair of the recesses is disposed to opposite sides of the centrally disposed recess, said stem is spaced concentrically from second tubular member with said tubular members in alignment with each other and is in abutment with the second tubular member (through the pin and rivet) in a terminal tilted position of said tubular members relative to each other, the tubular members having contoured interfitting end surfaces to define a smooth cylindrical contour therebetween with said tubular members in alignment with each other, the second tubular member having a pair of oppositely disposed elongated slots and the pin projects through the slots for grasping thereof.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt (2462560).

Schmidt shows all the claimed limitations except for the pin having a rounded head at each end projecting from the other tubular member for manual contact thereof.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Schmidt to show the pin a rounded head at each end projecting from the other tubular member because examiner takes Official Notice of the equivalence of a rounded

Art Unit: 3637

head as compared to a flat head for the pin as they both would function the same to hold the umbrella at a desired tilting angle.

Schmidt as modified inherently shows a pin projecting from the other tubular member and the pin can have manual contact thereof.

6. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt (2462560).

Schmidt shows all the claimed limitations except for the first member having a reduced diameter portion at an upper end to receive an upper metal section of a pole thereon, the second member having a reduced diameter portion at a lower end to received a lower metal section of a pole therein.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Schmidt to show the first member having a reduced diameter portion at an upper end to receive an upper metal section of a pole thereon, the second member having a reduced diameter portion at a lower end to received a lower metal section of a pole therein because it is well known in the art to have a tilting mechanism attaching to two sections of a metal pole together, and having reduced diameter portion would enable interfering fit with tapering sections of the metal pole sections.

Allowable Subject Matter

7. Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3637

8. The following is a statement of reasons for the indication of allowable subject matter: prior art does not show the plate being frictionally secured within and transversely of the second member in combination with other claimed limitations; and prior art also does not provide sufficient motivations to modify Schmidt (2462560) or Lin (4877045) to show the plate being frictionally secured within and transversely of the second member.

Response to Arguments

9. Applicant's arguments with respect to claims 1, 3-9, 11-15, 17-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Phi Dieu Tran A
December 23, 2003